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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,763

03/25/2004

Dennis J. Vaseloff

29178/39581

7314

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7590

08/22/2008

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EXAMINER

DANNEMAN, PAUL

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

08/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,763	Applicant(s) VASELOFF ET AL.	
	Examiner PAUL DANNEMAN	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/25/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. This action is in response to the application filed on 25 March 2004.
2. Claims 1-32 have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 1-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Zweig, US 6,950,028 B2.

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6. **Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

As per Claims 1-6, 7-19, 20-27 regarding the following limitations of a portable timer with data storage, a timer computing device with software executable by the timer computing device, a user interface, is able to communicate over a network which can be wireless and can interface to food operating devices and collect and record food and time related info. Zweig in at least Column 6, lines 18-48 discloses a hand-held electronic time-temperature indicator (Fig.5) or monitor with a visual display (Column 7, lines 11-21) which may easily and precisely be customized to match the time and temperature characteristics of an arbitrary material. Zweig further discloses the indicator is used to monitor a material's subsequent thermal history and is able to assess if the material is still fit (acceptable) after the various temperature environments over various durations of time. Zweig in at least Column 7, lines 1-10, lines 62-67 and Column 8, lines 1-41 further discloses that the microprocessor based unit contains an onboard timer as well as other customizable general programming information in its own onboard memory. Zweig in at least Column 7, lines 11-21 discloses that the time-temperature indicator / monitor has an external communication means (LEDs, sonic alarms, vibration, radio frequency signals, electrical signals, and infrared signals may be used) and some of the wireless communication means are Bluetooth (Column 14, lines 29-41). Zweig does not specifically disclose that the time-temperature monitor may be programmed to collect data when it is connected-to or disconnected-from a food operating device per se. However, Zweig in at least Column 14, lines 14-28 further discloses that the time-temperature device may be a plug-in card or module that may be affixed to a perishable material or a mechanical device. Therefore, it would have been obvious, at the time of the invention to one of ordinary skill to modify Zweig's portable time, temperature monitor to record material information and

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connectivity changes and related data whenever the unit is plugged into or removed from food operating devices with the motivation to have a history of the various processes that a material has been exposed to including the temperature and duration of each exposure.

7. **Claims 28-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Zweig, US 6,950,028 B2 in further view of Heagle et al., US 5,939,974 hereafter know as Heagle.

Zweig discloses the limitation as per Claims 20 above. As per Claims 28-32 regarding the following limitations processing the data from the portable timer via a network connection to a computing device and processing and collecting the information provides a restaurant operational and inventory information. Zweig does not specifically disclose the limitations of Claims 28-32 per se. However, Zweig in at least Column 7, lines 11-21 discloses that the time-temperature indicator / monitor has an external communication means (LEDs, sonic alarms, vibration, radio frequency signals, electrical signals, and infrared signals may be used), where the wireless communication means may be Bluetooth (Column 14, lines 29-41). Heagle in at least Fig.1, Fig.2, Column 5, lines 66-67 and Column 6, lines 1-14 discloses a computerized system for monitoring and controlling food service requirements with an interface unit to which portable instruments can be connected to. Heagle in at least Column 7, lines 27-40 further discloses that the portable instruments may be timers which may download data to the computing device. Heagle, in at least Column 7, lines 50-67 further discloses that the present invention incorporates features to improve performance while protecting public health by monitoring and promoting food handling procedures, inventory control and appliance status (food operating devices) within an operation. Heagle, in at least Column 8, lines 19-28 further discloses the invention is used for record keeping, performance control-monitoring and tailored time monitoring for the operation's various activities. Heagle in at least Column 14, lines 36-44 still further discloses that the program elements of the invention readily interface with existing industry software programs such as crew scheduling, inventory control, yield analysis, recipe models, etc. Therefore, it would have been obvious, at the time of the invention to one of ordinary skill to take the well know portable time-temperature monitoring elements

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of Zweig and combine them with Heagle's well know elements of monitoring all food handling, preparation, operational and inventory features for a food establishment with the motivation of providing a comprehensive system to promote food safety, customer satisfaction and improved food establishment operation and profitability.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Reber et al., US 5,798,694. Teaches a Food Storage Apparatus and Methods and Systems for Monitoring a Food Item.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit
3627

/Paul Danneman/

Examiner, Art Unit 3627

13 August 2008